

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7547 of 2019

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Jainendra Kumar (Male), aged about 42 years, S/o Krishna Sharma R/o
Village-Shekhpora, P.S.-Naubatpur, District-Patna

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Department of Irrigation, Patna
2. Secretary Department of Irrigation, Government of Bihar, Patna
3. Secretary Department of Agriculture, Government of Bihar, Patna
4. Collector/District Magistrate Patna
5. Sub Divisional Magistrate (SDM) Danapur, Patna
6. Anchal Adhikari Naubatpur Anchal, P.S.-Naubatpur, District-Patna
7. Block Development Officer (BDO) Naubatpur Anchal, P.S.-Naubatpur,
District-Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Adv.
For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 12-04-2019 Heard Mr. Pramod Kumar Singh, learned counsel for

the petitioner and Mr. Deepak Sahay Jamuar, learned AC to

AAG-4, for the State.

A complaint for removal of encroachment from water
reservoir situated at Khata no. 209 within Baruna village in the
district of Patna has taken a shape of Public Interest Litigation
relying upon the minutes of a Gram Sabha meeting held on
22.1.2018 which bears the signature of the Circle Officer,



Naubatpur, District Patna (respondent no.6).

Mr. Singh, learned counsel appearing for the petitioner, even while seriously espousing the cause of the villagers as reflected in the minutes present at Annexure 2 has not been able to show whether or not making such complaint any application is filed by the villagers before the Circle Officer under the provisions of the Bihar Public Land Encroachment Act, 1956 (hereinafter referred to as 'the Act') with a request as made in this writ petition.

In our opinion, where the law prescribes the mode and manner of a remedy the present complainant needs to take recourse thereto and cannot be permitted to bypass the statutory course so available to him.

In the circumstances noted and where undisputedly no such complaint has been made by the petitioner herein under the provisions of 'the Act' which casts an obligation on the prescribed authority i.e. the Collector under 'the Act' to initiate proceeding for removal of encroachment from public land be it in the nature of pond or otherwise, the petitioner would have to first exhaust such remedy before moving the Court in its extraordinary jurisdiction.

In the circumstances discussed, let the petitioner file



an appropriate application raising such complaint under ‘the Act’ after arraigning the alleged encroachers of such public land before the Circle Officer, Naubatpur (respondent no.6) and it goes without saying that any such complaint filed by the petitioner would be considered and disposed of in accordance with law by the Circle Officer, Naubatpur after opportunity of hearing to the complainant as well as alleged encroachers within a period of six months of filing of such complaint.

The writ petition is disposed of with the directions above.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Surendra/-

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